

GENERAL PROVISIONS



Scottsdale City Code

NOTICE TO TAXPAYERS

This booklet incorporates sections of the City Code of the City of Scottsdale, as it relates to General Provisions.

It is our hope that this booklet will assist you in understanding the licensing law.

For additional information or clarification please call
(480) 312-2400.

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CHAPTER 16 LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE I. GENERAL PROVISIONS

Sec. 16-1. Purpose.

The purpose of this article is to establish the general procedures which are applicable to the issuances or revocations of various types of licenses and permits by the city, in accordance with the provisions of Chapter 16 of the Scottsdale Revised Code, and to provide for a uniform administrative review and hearing process which may be used in the event of the denial or revocation of such licenses and permits. It is intended to provide a speedy and fair determination of the issues to which it applies.

Sec. 16-2. Applicability.

This article is applicable to Chapter 3 of this code and to the following articles of Chapter 16: IV, VI, VIII, IX, XII, XIV, XV, and XVI.

Sec. 16-3. Definitions.

The following words, terms and phrases, when used in this article, in Chapter 3, and in those articles of Chapter 16 of this Code to which this article applies, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aggrieved person means any person, who has been denied a license, or whose license is subject to revocation.

Appellant means an aggrieved person who files for appeal under this article.

Assault means conduct, or a course of conduct, in which a person recklessly, knowingly or intentionally commits, or threatens to commit, bodily injury to another person and includes threatening or intimidating, as provided in Arizona Revised Statutes Section 13-1202.

Controlling person means:

- (1) All general and limited partners of an applicant or licensee, if the applicant or licensee is a partnership;
- (2) All officers and all stockholders of ten percent (10%) or more of stock of an applicant or licensee, if the applicant or licensee is not a publicly-traded corporation; and
- (3) All on-site managers of an applicant or licensee who direct the daily operation of the applicant or licensee, whether or not an on-site manager has any ownership interest in the applicant or licensee.

Director means the Financial Services Customer Service Director of the city, the Director's designee, or a hearing officer appointed by the City Manager, as applicable.

General Manager means the General Manager of Financial Services of the city, the General Manager's designee, or a hearing officer appointed by the City Manager, as applicable.

License means either a license or permit to which this article applies.

Licensee means either a licensee or permittee to whom or which this article applies.

Moral turpitude means an act of baseness, vileness or depravity in the duties that a person owes to society, contrary to the accepted and customary rules of right and duty. *Moral turpitude includes*, but is not limited to, gross indecency, indecent exposure, lewdness, solicitation of prostitution, prostitution, perjury, forgery, tax evasion, theft, misappropriations of funds, and any other specific offenses that have been determined by federal or state courts in Arizona as being crimes of moral turpitude.

Sec. 16-4. Issuance of licenses.

(a) Unless otherwise expressly provided elsewhere in this chapter, license applications shall be filed with the director. The director shall be responsible for the issuance of the licenses which are subject to this article.

(b) The processing of an application begins with the filing of a complete license application. A complete license application includes, but is not limited to, any required written application, any and all supporting or related documents and materials, fingerprinting, if applicable, and payment of any and all required fees. Any time limit within which the provisions of this chapter require a license to be issued shall begin from the date of the filing of the complete license application. If an applicant files an application that is determined by the Director to be incomplete and fails to file a complete license application within ninety (90) days of the date of filing, the Director may deem the application to have been withdrawn and the file shall be closed.

(c) The Director will issue a license to an applicant or renew a license, if applicable, when the following conditions of the applicable licensing provisions have been fully satisfied:

- (1) All application requirements have been met, including any police background checks and fingerprint requirements.
- (2) All license fees, city taxes, fines and penalties have been paid in full.
- (3) No grounds for denial listed in this section exist.
- (4) No grounds for denial provided in the specific article under which application is made exist.
- (5) The applicant has not had a license similar to the one (1) issued pursuant to the provisions of this article issued by the city or another authority, denied, suspended or revoked within the two (2) year period immediately preceding the date of the filing of the application.

(d) The following grounds for denying a license or denying the renewal of a license, in addition to those grounds provided in the specific articles of this chapter, if the Director has reasonable grounds to believe that they exist at the time of the filing of an original application or a request for renewal:

- (1) The applicant or a controlling person has been previously convicted, in any jurisdiction, within the five-year period immediately preceding the filing of an original application or a request for renewal, of a felony; or a misdemeanor involving fraud, theft, dishonesty, assault or moral turpitude. Any such conviction shall constitute grounds for denial of a license, or renewal of a license, whether or not the conviction or convictions have been expunged from court records pursuant to law. A certified copy of the records of any court of competent jurisdiction reflecting the fact and date of any relevant conviction shall be prima facie evidence thereof for purposes of this article.
- (2) False or misleading information was given in any license application, request for renewal or was submitted in support of such application or request, or the applicant failed or refused to make full disclosure of all required information.
- (3) The applicant is not a United States citizen or lawful permanent resident alien or an alien who is authorized to work by the Government of the United States of America.
- (4) The applicant has not had a license or permit of the same or similar character as the license or permit applied for pursuant to the provisions of this article, issued by the city or another authority, denied, suspended, revoked or cancelled for cause within the two (2) year period immediately preceding the date of the filing of the application.
- (5) One or more conditions for issuing the license as provided in section 16-4 (c) have not been met.

Sec. 16-5. Denial of issuance.

The Director shall deny an application for a license if the applicant has failed to comply with the provisions of Section 16-4, or grounds for denial exist. The Director shall give written notice of any denial of an initial application, or a request for renewal, and the right of appeal from the denial, as provided for in this article. For the purposes of this article, a refusal to issue a license within any time period required by applicable provisions of this chapter, after a completed application has been submitted and the required fees and all outstanding city taxes, fines and penalties are paid in full, shall be considered as a denial of a license.

Sec. 16-6. Change of Address; Notices.

(a) Applicants and licensees are required to report any and all changes in their mailing address of record, residence and business addresses, not less than ten (10) days prior to the effective date of any change of address. Changes in address will be reported, in writing, to the Director, who may require that the change be reported on a form designated by the Director. The requirement of this subsection shall be in addition to any other provision in this chapter requiring applicants and licensees to update information pertaining to applications and licenses.

(b) All notices of denial or revocation provided for in this article shall be given by the Director, in writing, and shall state the basis for the denial or revocation, as provided in Sections 16-5 and 16-8.

(c) Unless otherwise provided in this section, the Director shall send all notices, required or permitted by this article, including notices of denial, revocation, or hearings to be conducted pursuant to this article to the mailing address of record provided on the most recent license application, or request for renewal, as applicable, or as reported by the licensee pursuant to subsection (a), above.

(d) Notices of denial or revocation shall be either delivered to the applicant or licensee personally or mailed to the applicant or licensee. Notice given by mail shall be by certified mail, restricted delivery, delivered to addressee only

and a return receipt shall be requested. Mailed notices will be posted with the United States Postal Service and sent to the address as provided in subsection (c), above. The results of any hearing provided for in this article shall be given to the applicant or licensee, as applicable, as provided in this section.

(e) When the Director has reasonable grounds to believe that the address of record is incorrect, the Director may send the notice to any address of the licensee known to the Director, including the address listed on any criminal citation, police report or record, if the Director believes it to be the most current address of the applicant or licensee.

(f) Compliance with the mailing provisions of this subsection constitutes notice of the denial or revocation, and the right of appeal, as applicable. The city is not required to prove actual receipt of the notice or actual knowledge of the denial or revocation. Any notice that is the subject of this section is complete upon mailing.

Sec. 16-6.1. Hearings.

(a) At the request of the Director or General Manager, as applicable, the City Manager may appoint a hearing officer to conduct any hearing provided for in this article.

(b) The hearing officer for hearings conducted pursuant to this article shall be the director, general manager or hearing officer appointed pursuant to subsection (a), as applicable. The hearing officer shall preside over the hearings provided for in this article, direct the course of the proceedings and make all rulings necessary to conduct the hearing in a fair and orderly manner.

(c) The city may be represented at such hearings by a member of the city staff, including the Civil or Prosecution Division of the City's Attorney's Office, or by outside counsel. The licensee or appellant, as applicable, may be represented by counsel. Each party to a hearing may present evidence in support of their position through testimony by witnesses, documents and other materials.

(d) Hearings conducted pursuant to this article will be informal and the formal rules of evidence will not apply. The burden

of proof shall be upon the city to prove the grounds for denial or revocation by a preponderance of evidence.

Sec. 16-7. Revocation; grounds.

The Director shall initiate license revocation proceedings when the Director has reasonable grounds to believe that:

- (1) The licensee or a controlling person has been convicted, in any jurisdiction, within the five-year period immediately preceding the filing of an original application or a request for renewal, or during any period in which the license that is subject to this article is in effect, of a felony; or a misdemeanor involving fraud, theft, dishonesty, assault or moral turpitude. A conviction or convictions may be grounds for revocation pursuant to this section whether or not the conviction or convictions have been expunged from court records pursuant to law. A certified copy of the records of any court of competent jurisdiction reflecting the fact and date of any relevant conviction shall be prima facie evidence thereof for purposes of this article. For the purposes of this subsection, the term "licensee" includes any controlling person.
- (2) The licensee has given false or misleading information in any license application, request for renewal or was submitted in support of such application or request, or has failed or refused to make full disclosure of information required by this chapter.
- (3) The licensee has had a license or permit of the same or similar character as the license or permit issued pursuant to the provisions of this article, issued by the city or another authority, denied, suspended, revoked or cancelled for cause within the two (2) year period immediately preceding the time when the Director learns of such denial, suspension, revocation or cancellation.

- (4) Any ground for suspension or revocation set forth in the article pursuant to which the license was issued exists.

Sec. 16-8. Revocation procedure.

(a) When grounds for revocation exist, the Director shall give the licensee written notice of a revocation hearing. The notice of hearing shall be given in accordance with this article and shall contain the following information:

- (1) The grounds for the revocation, including citations to applicable Code provisions.
- (2) An order directing the licensee to appear at a specified date, time, and place to show cause why the licensee's license should not be revoked. The date and time of the hearing shall be not less than ten (10) working days, nor more than fifteen (15) working days, after giving notice.

(b) A copy of this article 1 shall accompany the notice of license revocation hearing.

Sec. 16-9. Revocation hearing.

(a) The provisions of Section 16-6.1 of this article shall apply to revocation hearings. At the time of the revocation hearing, the director will state the grounds for revocation. The city shall then make its presentation, followed by the licensee. Presentations will be limited to the issue of whether the license that is the subject of the hearing should be revoked. At the close of both presentations, each of the parties may give final argument in support of their positions.

(b) If the licensee is not present at the place and at the time the hearing is scheduled, as specified in the notice given pursuant to Section 16-8, above, or within fifteen (15) minutes thereafter, the Director may infer that the licensee's absence is voluntary. Unless there is good cause, the hearing shall go forward without the licensee. An authorized legal representative, who is present within the required time, may represent the licensee in his or her absence.

(c) The Director may rule on the revocation at the close of the evidence and argument, but shall enter a ruling within ten (10) working days of the completion of the hearing.

(d) The ruling of the Director shall be in writing and signed by the Director and shall contain the Director's findings in respect to the allegations and the evidence supporting the findings. No license shall be revoked unless the Director finds by a preponderance of the evidence that one (1) or more of the grounds alleged for revocation are true. The Director shall give notice of the ruling as provided in this article and any revocation of a license or permit shall be effective when notice is given to the licensee or permittee, as applicable, and:

- (1) The time permitted for filing a notice of appeal, pursuant to Section 16-10, has expired without a notice of appeal having been filed; or
- (2) The revocation has been affirmed by the General Manager following the hearing of a timely filed notice of appeal; or
- (3) The aggrieved party has filed a timely notice of appeal, but has abandoned the appeal prior to any hearing and ruling by the General Manager.

(e) When a revocation becomes effective, as provided herein, the affected licensee or permittee shall surrender the license or permit to the General Manager immediately and shall no longer conduct any business pursuant to the license or permit.

(f) Provisions to the contrary notwithstanding, following a ruling by the Director as provided in subsection (c) above, the Director may declare that the subject license or permit be revoked immediately, if in the reasonable judgment of the Director, the continuation of activities or conduct licensed or permitted constitutes an unreasonable danger to the health or safety of any individual or the community in general. A revocation made effective under the provisions of this subsection shall be reactivated immediately upon the taking of a successful appeal by the aggrieved party.

Sec. 16-10. Appeal.

(a) An aggrieved party may appeal the denial of a license or request for the renewal of a license, or the revocation of a license, to the General Manager by filing a written notice of appeal with the Director not later than ten (10) working days after the Director has taken the action to be appealed from. The right to appeal is waived if the notice of appeal is not timely filed.

(b) This article contains all the appellate relief to which an aggrieved party is entitled through city procedures. The exhaustion of appellate remedies at the city level does not preclude an aggrieved party from seeking any other remedies provided by law.

Sec. 16-11. Appeal procedure.

(a) Upon receipt of a written notice of appeal, the General Manager shall set an appeal hearing to be held within ten (10) working days and shall give notice of the hearing as provided in this article. The notice of hearing shall also state that if the licensee is not present at the time of the hearing, the hearing will proceed without the licensee and that the General Manager will rule based upon the evidence presented at the hearing.

(b) When required in the interest of fairness, the General Manager may grant continuances of the hearing, but all hearings on license revocations and suspensions shall be heard not later than twenty (20) working days from the date on which the notice of appeal was filed.

(c) The provisions of Section 16-6.1 of this article shall apply to appeals pursuant to this Section 16-11. The city shall make it's presentation first, followed by the appellant. Presentations will be limited to the issue of whether the license that is the subject of the hearing should be revoked, or the denial of a license, or renewal of a license upheld, as applicable. At the close of both presentations, each of the parties may give final argument in suport of their positions .

(d) If the licensee is not present at the place and time the hearing is scheduled, as specified in the notice of hearing

given pursuant to this article, or within fifteen (15) minutes thereafter, the General Manager may infer that the licensee's absence is voluntary. Unless there is good cause, the hearing shall go forward without the licensee. An authorized legal representative, who is present within the required time, may represent the licensee in his or her absence.

(e) At the conclusion of the hearing, the General Manager shall rule on the appeal within ten (10) working days, unless all parties stipulate that additional time is required to render a fair decision. The General Manager shall sustain the action appealed if it is supported by a preponderance of evidence. The General Manager shall notify the appellant of the ruling in writing, by mail, whether or not the ruling is made at the conclusion of the evidence at the time of the hearing.

(f) When a license revocation is the subject of an appeal under this section, the revocation shall not be effective unless it is sustained by the General Manager. The revocation shall be effective immediately when the ruling is made by the General Manager at the time of the hearing, or upon mailing of the written notice of ruling as provided in this section, when the ruling is made at a time after the hearing is concluded. The licensee shall surrender all revoked licenses to the General Manager, or to such city representative as the General Manager may direct, whenever the revocation becomes effective.

Sec. 16-12. Record of proceedings.

Proceedings made pursuant to Sections 16-9 and 16-11 shall be recorded stenographically, on magnetic voice tape or on video tape. The resulting record shall be maintained as a public record of the city for such period of time as may be required by law, but in no event for less than one (1) year.

Sec. 16-13. Use of criminal history information.

(a) Any use or disclosure of criminal history information in the implementation of this chapter shall be only under the terms and conditions of Arizona Revised Statutes Section 41-1750. All other uses of such information is prohibited.

(b) Criminal history information obtained pursuant to Arizona Revised Statutes Section 41-1750 shall not be disclosed to the public. Should the disclosure and discussion of such information become necessary during any hearing or proceeding that is otherwise open to the public, the disclosure and discussion shall be in camera. In camera as used herein means disclosure or discussion of criminal history information only to those who are authorized by law to know the disclosed information.

Sec. 16-14. Reapplication.

(a) No person who has had the issuance or renewal of a license denied, or a license revoked, pursuant to this article, may apply for a license of the same or similar kind that was the subject of the denial or revocation for two (2) years after the decision affecting the applicant's license has become final and is no longer subject to appeal, unless the cause of such denial, non-renewal or revocation has been removed to the satisfaction of the director.

(b) No person, who has previously been denied a license or renewal of a license, or who has had a license revoked, pursuant to this chapter, because false or misleading information was given in any license application, or was submitted in support of the application, or the applicant or licensee failed or refused to make full disclosure of all information required for the completion of the application, shall be permitted to apply for any license to which this article applies until two (2) years after the decision affecting the applicant's license has become final and is no longer subject to appeal pursuant to this article.

(c) No person, who has been previously denied a license or renewal of a license, or who has had a license revoked for a conviction of an offense described in this article may apply for a license pursuant to this article for two (2) years from the denial or revocation, or within five (5) years from the conviction date, whichever is greater.

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